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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,518	11/15/2001	Ingo Gasser	2001-1252A	6150
513	7590	03/12/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			TRAN, HANH VAN	
		ART UNIT	PAPER NUMBER	
		3637		

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/936,518	GASSER, INGO
	Examiner Hanh V. Tran	Art Unit 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 February 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18-40 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 18-40 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>17</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Information Disclosure Statement

2. Please note that of the references listed on PTO-1449 of paper #17 are listed on previous PTO-1449 and PTO-892 papers. Therefore, those references have been marked on PTO-1449 of paper #17 as "Not considered".

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 1-2, "said at least two components of said damping device" lacks antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 18, 21-29, 31-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Great Britain 2,245,158 to Tamura in view of USP 4,445,726 to Rock et al.

Tamura discloses a pull-out guide fitting for a drawer comprising all the elements recited in the above listed claims including a drawer track 7, a support track 3, rolling elements arranged between the tracks, a dampening device including a rotary damper component, a stop 22, a coupling attachment for coupling the drawer track and the support track 3, a control component, a rack having a toothed rack profile 5, a pinion for engaging the rack, a compression spring 20, a fluid damping device including a damping fluid medium *a*. The different being that Tamura does not disclose a center track arranged between the drawer track and the support track, the dampening device being mounted on any one of the tracks, to dampen relative motion of "only" two tracks or all three tracks, and the stop being mounted on any one of the tracks.

Rock et al teaches the idea of providing a pull-out guide fitting for a drawer comprising a drawer track attached to a drawer, a support track attached to a body sidewall, a center track arranged between the drawer track and the support track, rolling elements arranged between the drawer track, the center track, and the support track in order to allow the drawer to be pulled out

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of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture. Therefore, it would have been obvious to modify the structure of Tamura by providing the pull-out guide fitting with a center track arranged between the drawer track and the support track, rolling elements arranged between the drawer track, the center track, and the support track in order to allow the drawer to be pulled out of the body of a piece of furniture over its entire length and facilitate the reinsertion of the drawer into the body of the furniture, as taught by Rock et al, since both teach alternate conventional pull-out guide fitting structure, used for the same intended purpose, thereby providing structure as claimed. In regard to the dampening device being mounted on any one of the tracks, to dampen relative motion of "only" two tracks or all three tracks, and the stop being mounted on any one of the tracks, it would have been obvious to rearrange the dampening device and the stop of Tamura, as modified, such that the dampening device and the stop being mounted to any one of the tracks as claimed, and to dampen relative motion of "only" two tracks or all three tracks, since it is well within the level of one skill in the art to rearrange existing components from one location to another to achieve various combination of interaction between the components.

8. Claims 19-20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura, as modified, as applied to claims 18 above, and further in view of EP 556,613 to Migliori.

Tamura, as modified, discloses all the elements as discussed above except for the dampening device comprises a hydraulic damping device a, a linear damping component including a cylinder and a piston.

Migliori discloses a rack and pinion pneumatic actuator with counter-pressure control and damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies. Therefore, it would have been obvious to modify the structure of Tamura, as modified, by providing a rack and pinion pneumatic actuator with counter-pressure control and a linear damping component including a cylinder and a piston damping device in order to control the damping actions, in a controlled manner, in an extremely small space at the approaching end of each working stroke, allowing a low-down to stop and reverse the sliding movement of the rack and piston assemblies, as taught by Migliori, since both teach alternate conventional damping device, thereby providing structure as claimed.

Response to Arguments

9. Applicant's arguments filed 2/20/04 have been fully considered but they are not persuasive. In response to applicant's argument on page 7 that the Rock reference does not disclose or suggest a damping device, the examiner would like to remind the applicant that Rock is used for the teaching of a pull-out guide assembly having a drawer track, a support track and a center track. Whether Rock disclosed or suggested a damping device is not at issue in the above art rejection.

10. In response to applicant's argument on page 7 that the combination of Tamura and Rock does not suggest a damping device arranged as recited in amended independent claim 18, the examiner take the position that, as stated in the above art rejection, Tamura, as modified by Rock, provides all the elements recited therein, and it is well within the level of one skill in the

art to rearrange existing components (dampening device) from one location to another to achieve various combination of interaction between the components.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brustle and Naef both show structures similar to various elements of applicant's disclosure.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hanh V. Tran
Art Unit 3637

HVT
March 6, 2004